

SENATE BILL REPORT

SB 5665

As Passed Senate, March 17, 2003

Title: An act relating to administration of irrigation districts.

Brief Description: Changing irrigation district administration provisions.

Sponsors: Senators Rasmussen and Swecker.

Brief History:

Committee Activity: Agriculture: 2/13/03, 2/27/03 [DP].

Passed Senate: 3/17/03, 49-0.

SENATE COMMITTEE ON AGRICULTURE

Majority Report: Do pass.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Jacobsen, Rasmussen and Sheahan.

Staff: Evan Sheffels (786-7486)

Background: Irrigation districts may purchase, construct, operate, maintain, and repair conduit systems and diversions in order to deliver water to individual irrigators. An irrigation district may also perform a variety of other functions, including the purchase and sale of electric power for irrigation and domestic use, operation of a domestic water system for irrigated landowners, and operation of a drainage or sewage system.

Irrigation district directors and employees are currently granted statutory immunity from civil liability for good faith activities in the scope of an irrigation district's electric utility duties and responsibilities. At least 5 percent of irrigation district revenues may be placed annually in a facilities upgrading and improvement fund.

Irrigation districts may impose rates and charges for district services through the collection or levy of assessments. Unpaid rates and charges are deemed to be a lien until the rates and charges are paid in full. Under the "last faithful acre" doctrine, real property benefitted by an irrigation district may be assessed in subsequent years for delinquent or unpaid assessments from prior years. Irrigation district statutes state that liens on district assessed property are "paramount and superior" to other liens, "shall be and remain liable to be assessed for such payments until fully paid" (RCW 87.03.215), and "shall not be removed until the assessments are paid or the property sold for the payment thereof as provided by law" (RCW 87.03.265).

Irrigation districts are also included by reference in utility statutes that automatically extinguish liens if a utility fails to respond quickly after a closing agent's request for a statement. Districts have conveyed concern that such extinguishment provisions could impair irrigation district access to favorable bonding terms contractually dependent upon payment

assurances contained in the non-extinguishment provisions of district statutes and the "last faithful acre" doctrine.

After three years of delinquency, the irrigation district treasurer must prepare certificates of delinquency for unpaid assessments and costs. Both the district treasurer and the county treasurer may foreclose liens individually or in a combined judicial foreclosure action. A presumption of legality attaches to district documents unless a party in interest would be unfairly affected by defects. Any party with an interest in a property for which a certificate of delinquency has been prepared may redeem the property by paying delinquent assessments, costs and interest prior to a foreclosure sale. At the foreclosure sale, the treasurer is authorized to execute and convey the property deed to any person who pays all attached taxes, assessments, and costs. If no bids are received, title to the property vests in the irrigation district.

Summary of Bill: The scope and coverage of immunity is extended so that officers and agents, in addition to directors and employees, are granted immunity from any and all legal claims or causes of action so long as they are engaged in good faith activities within the scope of official hydroelectric, irrigation, or electric utility duties. Annual contribution to a district's upgrade and improvement fund is limited to 5 percent of district revenues, although all electric energy revenues may be deposited in the fund.

The judicial foreclosure process is expedited to achieve prompt and cost-effective foreclosure. The board of directors is granted discretion to limit or preclude a foreclosure action if it would not be in the best interest of the district. District documents are presumed valid unless a party with an interest in the property would be unfairly prejudiced.

Defenses or objections to foreclosure are limited to issues of pleading form, sufficiency of service, payments status, and district jurisdiction. Courts are to liberally allow amendments to the district's legal pleadings, and are to issue prompt judicial foreclosure determinations that are limited to the record of a district's pleading and a party in interest's answer. To avoid injustice, the court may schedule expedited hearings limited to evidentiary affidavits and declarations. Such hearings are accorded precedence over other pending civil cases.

County treasurers are authorized to utilize the county tax lien foreclosure statute, Chapter 84.64 RCW, when foreclosing on a combined action or on a district's behalf.

References to irrigation districts are removed from utility statutes so that district liens will not automatically extinguish upon a district's failure to respond promptly to closing agent requests.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill makes irrigation district administrative processes more efficient and is needed to protect the district's bonding position.

Testimony Against: None.

Testified: Mike Schwisow, Washington State Water Resources Association (pro).